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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/678,549	10/04/2000	Rois O. Cordova	INTL-0473-US(P10020)	5766
21906	7590	04/19/2004	EXAMINER	
TROP PRUNER & HU, PC 8554 KATY FREEWAY SUITE 100 HOUSTON, TX 77024			FLYNN, KIMBERLY D	
			ART UNIT	PAPER NUMBER
			2153	
DATE MAILED: 04/19/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

14

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/678,549	CORDOVA, ROIS O.	
	Examiner	Art Unit	
	Kimberly D Flynn	2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 02 February 2004.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-25 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-25 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/6

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

## DETAILED ACTION

1. This action is in response to an Amendment filed February 2,2004. Claims 1-25 are presented for further consideration.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 5-6, 9-11, 15-16, and 19-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shepherd in view of Gilbert (U.S. Patent No. 5,850,396).

In considering claims 1, 11, 21, and 25, Shepherd discloses forwarding a software package to a terminal or terminals, (col. 3, lines 35-41); and enabling said first processor-based system to automatically forward said software package together with at least part of said list of addresses to a second processor-based system, said second processor-based system being on said list of addresses (col. 3, lines 43-58).

While Shepherd discloses the invention substantially as claimed Shepherd does not particularly disclose the destination (which identifies a terminal that is to receive the software package) including a list of addresses. Including a list of addresses or nodes in a forwarded data package, indicative the package's recipients, is well known in the art as evidenced by Gilbert. In similar Gilbert discloses a system for multicast message distribution wherein the network has an originating node that sends a message for ultimate receipt by a subset of nodes in a polynomial

expansion manner. The originating node sends a message to a limited number of nodes; each node also receives a unique list of other nodes that should ultimately receive the message. Each of these other nodes then sends the message to one or more nodes on its list, along with a unique subset of nodes that still have not received the message.

Given the teachings of Gilbert, it would have been obvious to a person having ordinary skill in the art to modify the software distributing system disclosed by Shepherd to include the unique node list as taught by Gilbert so that the software package can be sent from the originating node or processor-based system without having to incur substantial connect-time, thus allowing the software packages to be received in the most time-efficient manner that is possible. Therefore the aforementioned limitations would have been an obvious modification to the system disclosed by Shepard.

In considering claims 5 and 15, while Shepherd further discloses forwarding a transfer complete message to the management station to advise the management station that the software package has been transmitted to the specified terminal (col. 3, lines 59-67), Shepherd does not disclose sending the software package together with a checksum to enable the second processor-based system to confirm with the first processor-based system that the software package was received correctly. Nonetheless, the method of receipt confirmation is merely a design choice and would not change the overall functionality of the system. It would have been obvious to a person having ordinary skill in the art to include sending the software package along with a checksum to confirm that the software package was received correctly as an alternate delivery confirmation method. Therefore, the claimed limitation would have been an obvious modification to the system disclosed by Shepherd.

In considering claims 6 and 16, Shepherd further discloses including causing said first processor-based system to forward said software package to said second and a third processor-based system (col. 4, lines 43-51).

In considering claims 9 and 19, Shepherd further discloses transferring said software package together with software that enables said second processor-based system to transfer said software package to a third processor-based system (col. 4, lines 20-27).

In considering claims 10 and 20, Shepherd further discloses enabling said first processor-based system to forward said software package to said second processor-based/ system during a low activity time on said first processor-based system (col. 4, line 28-42).

In considering claims 22, Shepherd further discloses a system wherein the device is a server. (While Shepherd does not refer to the device 12 of fig 1, as a server; it performs all of the functions of a server and is therefore functionally equivalent to a server).

In considering claims 23, Shepherd further discloses wherein said server is a network management server (see fig. 1, means (12)).

In considering claims 24, Shepherd further discloses wherein said device is a client (see fig. 1, means (16-1-n)).

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-4, 7-8, 12-14, and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shepard in view of Gilbert in further view of Mapson (WO 98/33296).

In considering claims 2-4, 7-8, 12-14, and 17-18, while the combined system of Shepherd and Gilbert discloses the system substantially as claimed, the system does not disclose the step of encrypting the software package for transmission between said first and second processor-based systems and changing the encryption in a known fashion with each successive transfer from one to the next processor-based system. Nonetheless, encrypting software packages and changing the encryption with each transfer of the software was well known to one skilled in the relevant art at the time the invention was made as evidenced by the teachings of Mapson.

In similar art, Mapson discloses a distribution system with authentication that provides a method of distributing one or more copies of goods and/or services wherein the Integrity Check Value (ICV) is recalculated in a manner determinable from both the first location and the product. The product, including the recalculated ICV; is then distributed to a second location remote from the first location where the IVC of the distributed product is compared to the IVC known to the first location (see Mapson, page 1, lines 30-32; through page 2, lines 1-9). Therefore, one of ordinary skill in the art would have found it obvious to incorporate and implement the recalculated ICV in Shepherd's system in order to ensure the integrity of software distributed over an at least partially insecure network.

In considering claims 2 and 12, Mapson further discloses enabling said first processor-based system to install said software package on said first processor-based system, make a copy of said software package, and transmit said software package to said second processor-based system (see Mapson, page 2, lines 7-8).

In considering claims 3 and 13, Mapson further discloses causing said first processor-based system to automatically authenticate said software package (see Mapson, page 4, lines 31-32 through page 5, lines 1-2 and 15-16).

In considering claims 4 and 14, Mapson further discloses causing said second processor-based system to automatically authenticate said software package by sending a message to said first processor-based system (see Mapson, page 8, lines 23-29).

***Response to Arguments***

6. Applicant's arguments with respect to claim1-25 have been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**

Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on January 12, 2004 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609(B)(2)(i). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly D Flynn whose telephone number is 703-308-7609. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 703-305-4792. The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

(703-746-72388, for After Final communications

(703) 746-7239, for Official communications

(703) 746-7240, for Non-Official/Drafts.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703-305-3900.

Kimberly D Flynn  
Examiner  
Art Unit 2153

KF  
April 12, 2004

FRANTZ B. JEAN  
PRIMARY EXAMINER